

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

APRIL McNEAL,)	CASE NO. 5:08 CV 556
)	
Plaintiff,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	Magistrate Judge Greg White
)	
Defendant.)	<u>MEMORANDUM OPINION</u>

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Greg White (Document #14). On March 4, 2008, Plaintiff, April McNeal filed her Complaint challenging the final decision of the Commissioner of Social Security denying her claim for a Period of Disability, Disability Insurance Benefits, and Supplemental Security Income under Title II and Title XVI of the Social Security Act, 42 U.S.C. §§ 416(i), 423, and 1381 *et seq.* Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge White.

On September 11, 2008, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge recommends that the instant matter be dismissed for want of prosecution. Objections to the Report and Recommendation were to be filed within 10 days of being served a copy of the Report and Recommendation. On September 23, 2008, Plaintiff filed a Motion for Extension of time, requesting an additional seven days within which to file her objections. On

October 1, 2008, the Court granted Plaintiff's request for an extension. Plaintiff did not file any objections to the Report and Recommendation.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable standard of review for a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case de novo.

FED. R. CIV. P. 72(b) states:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).

The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

Conclusion

This Court has reviewed the Magistrate Judge's Report and Recommendation. After careful evaluation of the record, this Court finds that Magistrate Judge White properly recommended that the case be dismissed. Accordingly, the Report and Recommendation of Magistrate Judge White (Document # 14) is hereby ADOPTED and the instant matter is hereby DISMISSED.

IT IS SO ORDERED.

s/Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: October 15, 2008